IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5802 OF 2007

Ramesh Ratan Patil ....Petitioner
V/s
Commissioner of Police, Thane & Ors.... ....Respondents.

Mrs.Bobby Malhotra Paul, Adv. For the petitioner.

Mr.S.K.Chincholikar, AGP For the respondent.

CORAM: A.P.DESHPANDE, J.
14/9/07

PC:

Rule. Rule made returnable forthwith.

Taken up for final hearing by consent of both the parties.

The present petitioner carries on business of lodging and boarding under the name and style of Sayo International Lodging and Boarding at Kalyan. The licensing authority has issued a license under section 33(1)(W) of the Bombay Police Act in January, 2003. Sometime in June, 2005 a person by name Sushant Keluskar was found dead in the lodge and hence the petitioner' brother, manager and his friend were arrested. After the investigation was over charge sheet came to be filed and the Sessions Judge has granted bail to the petitioner's brother so also the Manager.

2. The petitioner was served with show cause notice as to why his license should not be canceled mainly on the ground that a murder was committed in one of the rooms in the lodge. The petitioner pointed out that he is in no way responsible for the said criminal act. However the authority being of the view that having regard to the law and order situation the license needs to be canceled and hence proceeded to cancel

the same. An appeal filed against the said order has been dismissed. Hence the present writ petition is filed. Learned counsel for the petitioner has submitted that the observations made by the authority that the petitioner is responsible for the criminal act is wholely unsustainable. It is obvious that the petitioner is not at all concerned with the above mentioned criminal act. Learned counsel for the petitioner submits that baring the said incident which occurred in June, 2005 no case is pending against the petitioner. It is also submitted that the petitioner will not continue the manager as the criminal case for offence punishable under section 302 is pending against him. In the submission of the learned counsel cancellation of license to run a lodge is penal order which goes to deprive the petitioner of his right to carry on business and action is not justified solely on account of an offence being committed in the lodge with which the petitioner has no concern whatsoever. The submission is that both the authorities below have erred in not appreciating these submission in their proper perspective. It is also pointed out that the observations made by the Sessions Judge while releasing brother of the petitioner on bail is also indicative of absence of strong prima facie case against the brother of the petitioner andmanager as well. As the petitioner is proposing to assure the licensing authority that the manager who is facing criminal trial will not be continued in lodge I deem it appropriate to remand the matter for reconsideration. In the result impugned orders are quashed and set aside. The matter is remanded to respondent No.1 who shall after granting an opportunity of hearing to the petitioner take fresh decision in accordance with law. It is made clear that the respondent No.1 shall consider submissions made by the petitioner some of which are reproduced in this order. Respondent No.1 shall take a decision in

accordance with law within a period of four weeks from today. Needless to mention that respondent No.1 shall take decision after affording an opportunity of being heard to the present petitioner in the matter. Rule made absolute in above terms.

14.9.07